

Regular Session, 2008

ACT No. 509

HOUSE BILL NO. 1347

BY REPRESENTATIVES AUSTIN BADON, TIM BURNS, CARTER, CONNICK, CROMER, GREENE, HAZEL, HENRY, LIGI, LORUSSO, MONICA, PEARSON, PERRY, PUGH, ROBIDEAUX, SCHRODER, SMILEY, TALBOT, AND TUCKER AND SENATOR WALSWORTH

1 AN ACT

2 To enact Chapter 43 of Title 17 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 17:4011 through 4025, relative to educational options for parents and other
4 legal guardians; to establish and provide for the implementation of the Student
5 Scholarships for Educational Excellence Program; to provide for legislative findings;
6 to provide for definitions; to provide relative to the duties and responsibilities of the
7 State Board of Elementary and Secondary Education and the state Department of
8 Education; to provide relative to eligibility and participation requirements for
9 students and schools; to provide relative to selection and enrollment of eligible
10 students; to provide relative to funding and payments to eligible schools including
11 eligible nonpublic schools; to provide relative to testing; to provide for reports; and
12 to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. Chapter 43 of Title 17 of the Louisiana Revised Statutes of 1950,
15 comprised of R.S. 17:4011 through 4025, is hereby enacted to read as follows:

16 CHAPTER 43. STUDENT SCHOLARSHIPS FOR
17 EDUCATIONAL EXCELLENCE PROGRAM

18 §4011. Short title

19 This Chapter shall be known and may be cited as the "Student Scholarships
20 for Educational Excellence Act".

21 §4012. Legislative findings

22 The legislature finds and declares that:

23 (1) It is in the public interest that all Louisiana schoolchildren receive the
24 best education that its citizens can provide, and the state of Louisiana has the right,

1 the responsibility, the duty, and the obligation to accomplish the objective of quality
2 education for all Louisiana children, particularly for those children in school systems
3 that have been declared to be academically in crisis.

4 (2) Attendance of children at nonpublic schools constitutes compliance with
5 the objectives of Louisiana's compulsory attendance law; nonpublic schools in
6 Louisiana make a significant educational and economic contribution towards
7 meeting the goal of a quality education for every Louisiana school child; and
8 Louisiana has recognized and encouraged that contribution through providing
9 textbooks and transportation to students attending approved nonpublic schools for
10 many decades.

11 (3) Effective nonpublic schools exist in Louisiana's school systems,
12 including those that are academically in crisis.

13 (4) Nonpublic schools can offer a quality education to students in systems
14 that are academically in crisis, and it is in the public interest to offer students in such
15 systems the means of accessing the educational opportunities offered by nonpublic
16 schools by providing them with scholarships to attend such schools.

17 (5) Academically acceptable public schools can serve as quality alternatives
18 for students attending low-performing public schools.

19 §4013. Definitions

20 As used in this Chapter, unless otherwise clearly indicated, the following
21 terms shall mean:

22 (1) "Covered district" means a local public school system which meets all
23 of the following criteria:

24 (a) Has been found to be academically in crisis pursuant to R.S. 17:10.6.

25 (b) Has had schools transferred to the jurisdiction of the Recovery School
26 District pursuant to R.S. 17:10.7.

27 (c) Is located in a parish with a population of at least four hundred seventy-
28 five thousand persons according to the latest federal decennial census and includes
29 the Recovery School District established pursuant to R.S. 17:1990 to the extent that

1 schools under the district's jurisdiction are located within the geographic boundaries
2 of a covered district.

3 (2) "Department" means the state Department of Education.

4 (3) "Eligible student" means a student who resides within the geographic
5 boundaries of a covered district, is a member of a family with a total income that
6 does not exceed two hundred fifty percent of the current federal poverty guidelines
7 as established by the federal office of management and budget and who meets any
8 one of the following criteria:

9 (a) Is entering kindergarten.

10 (b) Was enrolled in a public school located within a covered district during
11 the previous school year in a program-eligible grade and such school has been
12 identified as academically unacceptable or has a school performance score or an
13 assessment index of sixty or less as defined by the State Board of Elementary and
14 Secondary Education pursuant to policies developed and adopted by the board for
15 implementation of the school and district accountability system.

16 (c) Received a scholarship pursuant to this Chapter in the previous school
17 year and remains otherwise eligible.

18 (4) "Participating school" means a nonpublic school that meets program
19 requirements and seeks to enroll scholarship recipients pursuant to this Chapter or
20 a public school located within the geographic boundaries of a covered district that
21 meets program requirements and seeks to enroll scholarship recipients pursuant to
22 this Chapter.

23 (5) "Program" means the Student Scholarships for Educational Excellence
24 Program.

25 (6) "Scholarship" means the funds awarded to a parent or other legal
26 guardian on behalf of an eligible student to attend a participating school pursuant to
27 this Chapter.

28 (7) "Scholarship recipient" means an eligible student who is awarded a
29 scholarship pursuant to this Chapter.

1 §4014. Student Scholarships for Educational Excellence Program; creation

2 The Student Scholarships for Educational Excellence Program is hereby
3 created and shall be administered by the state Department of Education.

4 §4015. Program administration

5 In administering the program pursuant to this Chapter, the department shall:

6 (1) Determine student eligibility for scholarships.

7 (2) Receive the notice of intent from schools seeking to participate in the
8 program, qualify such schools for participation in the program, and determine the
9 number of available seats, by grade, at participating schools.

10 (3)(a) Accept applications from parents and other legal guardians of eligible
11 students and award scholarships to eligible students who submit applications, up to
12 the number of available seats in each grade at all participating schools.

13 (b) In the event there are more eligible students who submit applications than
14 there are available seats at participating schools for any grade, the department shall
15 utilize a random selection process to award scholarships that provides each eligible
16 student an equal opportunity for selection.

17 (4) Notify parents and other legal guardians of eligible students who applied
18 for scholarships whether they have been awarded a scholarship and of the process
19 that must be followed to enroll in a participating school.

20 (5) Remit scholarship payments to participating schools on behalf of a
21 scholarship recipient.

22 (6) Receive independent financial audits from participating nonpublic
23 schools as required by this Chapter.

24 (7) In the event that there are more scholarship recipients applying for
25 enrollment in a participating school than there are available seats, ensure that the
26 school shall select scholarship recipients for admission utilizing a random selection
27 process that provides each scholarship recipient with an equal opportunity for
28 selection. The department shall establish a timeline that coordinates a random
29 selection process at all participating schools and shall ensure that each participating
30 school adopts procedures for conducting such random selection process and notifies

1 the parents or legal guardians of scholarship recipients of the procedures to be
2 followed should a random selection process be required.

3 (8) For students enrolled in the program, annually verify the eligibility status
4 of each student and notify his parent or other legal guardian of his status by not later
5 than April thirtieth or a date determined by the department that would provide
6 students who are no longer eligible for a scholarship sufficient time to apply to
7 another school within the covered district.

8 (9) Provide each scholarship recipient and their parent or legal guardian with
9 a list of schools participating in the program each year.

10 (10)(a) Place any participating school that fails to comply with the audit
11 provisions pursuant to R.S. 17:4022(4) on probation for a period of one year during
12 which such school shall not be permitted to enroll additional scholarship recipients.

13 (b) If such school has not come into full compliance by the end of the one-
14 year probationary period, the school shall be ineligible to participate in the program
15 until such time as the department has determined that the school is in full
16 compliance.

17 (c) The department shall assist any scholarship recipient attending a school
18 that is no longer eligible to participate in the program to transfer to another
19 participating school, provided such school has sufficient capacity at the appropriate
20 grade level.

21 §4016. Scholarship amounts; funding

22 A. The amount of the scholarship provided on behalf of a scholarship
23 recipient shall be an amount equivalent to ninety percent of the per pupil amount the
24 covered district receives from combined state and local sources or the maximum
25 amount of tuition plus incidental or supplementary fees that are charged to non-
26 scholarship students enrolled in such school and any costs incurred in administering
27 the tests required pursuant to R.S. 17:4023, whichever is less.

28 B. The amount of the scholarship provided on behalf of a scholarship
29 recipient that enrolls in a participating school that does not charge tuition shall be an
30 amount equivalent to ninety percent of the per pupil amount the covered district

1 receives from combined state and local sources or the participating school's actual
 2 cost of educating a student plus any costs incurred in administering the tests required
 3 pursuant to R.S. 17:4023, whichever is less.

4 C. For a scholarship recipient who is entitled to receive special education
 5 services, there shall be added to the amount of the scholarship an amount equivalent
 6 to special education funding provided to a covered district for such a student from
 7 federal sources. A participating public school receiving a scholarship payment for
 8 a scholarship recipient pursuant to this Chapter shall not receive any funds through
 9 the Minimum Foundation Program for such student.

10 D. Funding for scholarships awarded to parents or other legal guardians of
 11 eligible students pursuant to this Chapter shall be provided by an appropriation from
 12 the legislature from the state general fund.

13 E. The total amount of state funds expended to implement the provisions of
 14 this Chapter for Fiscal Year 2008-2009 shall not exceed ten million dollars.

15 §4017. Payment of scholarships

16 A. The Department of Education shall remit scholarship payments directly
 17 to each participating school on behalf of the parent or other legal guardian of a
 18 scholarship recipient. The parent or other legal guardian shall assign the full value
 19 of the scholarship to the participating school.

20 B. The amount to be paid for a scholarship shall be divided into four equal
 21 payments to be made to each participating school in September, November,
 22 February, and May of each school year. Payments shall be based on per pupil count
 23 dates as determined by the department. No refunds shall be made to the department
 24 or to the parent or other legal guardian if the scholarship recipient withdraws from
 25 the program or is otherwise not enrolled prior to the next count date.

26 §4018. Student eligibility

27 A. For the 2008-2009 academic year, students shall be eligible to receive
 28 their initial scholarships when entering kindergarten or when entering the first,
 29 second, or third grade if they attended public school in the covered district during the

1 previous school year. Students in grades four through twelve shall be eligible for
2 scholarships as additional grade levels are added to the program.

3 B. Scholarship recipients shall remain eligible to receive scholarships in each
4 succeeding year that they remain enrolled in a participating school through grade
5 twelve. As the 2008-2009 cohort of scholarship recipients advances in grade level,
6 one additional grade level of eligibility shall be added to the program, beginning in
7 2009-2010. Student eligibility continues if a student transfers from one participating
8 school to another participating school.

9 §4019. District eligibility

10 A covered district that is eligible for inclusion in the program on the effective
11 date of this Chapter shall be considered a covered district for the duration of the
12 program.

13 §4020. School participation; application

14 A. Participation in this program by a school is voluntary, and this Chapter
15 shall not authorize any additional regulation of participating schools beyond that
16 specifically authorized by this Chapter.

17 B. Any school that wishes to participate in the program and enroll
18 scholarship recipients shall annually notify the department of its intent to participate
19 in the program by February first of the previous school year; except that for the
20 2008-2009 school year, a school that seeks to participate in the program shall notify
21 the department of their intent to participate not later than July 30, 2008. The notice
22 shall specify the number of seats the school will have available for scholarship
23 recipients at each grade level and the maximum amount of tuition attributable to each
24 available seat.

25 §4021. School eligibility

26 A. To be eligible to participate in the program, a nonpublic school shall meet
27 all of the following criteria:

28 (1) Be approved, provisionally approved, or probationally approved by the
29 State Board of Elementary and Secondary Education pursuant to R.S. 17:11.

1 (2) Comply with the criteria set forth in Brumfield, et al. v. Dodd, et al. 425
2 F. Supp. 528.

3 (3)(a) Enrollment of scholarship recipients in a participating school that has
4 been in operation for less than two years shall not exceed twenty percent of such
5 school's total student enrollment.

6 (b) The department may grant a waiver of this requirement to a participating
7 school if the governing authority of such school demonstrates a proven record of
8 successful operation of other schools.

9 B. To be eligible to participate in the program, a public school shall be
10 determined to be academically acceptable pursuant to the Louisiana School and
11 District Accountability Program.

12 C. Scholarship recipients enrolled in a participating school that fails to meet
13 the eligibility criteria established in this Section may transfer to another participating
14 school for the succeeding school year without loss of eligibility, and such students
15 shall be given preference for enrollment at other participating schools.

16 §4022. Participating schools; requirements

17 Each participating school shall:

18 (1) Within sixty days after the scholarship program admissions period as
19 scheduled by the department, notify the applicant in writing whether the applicant
20 has been accepted.

21 (2) Use an open admissions process in enrolling scholarship recipients in the
22 program and shall not require any additional eligibility criteria other than those
23 specified in R.S. 17:4013(3). In the event that there are more scholarship recipients
24 applying for enrollment in a participating school than there are available seats, select
25 scholarship recipients for admission utilizing a random selection process that
26 provides each scholarship recipient with equal opportunity for selection. However,
27 a participating school may give preference to siblings of a student who is already
28 enrolled in the participating school. For the purposes of such random selection
29 process, twins, triplets, quadruplets, and other such multiple births shall constitute
30 one individual. Participating schools shall notify the department of any scholarship

1 recipient not selected by random selection so that the department may notify those
2 students of other participating schools with an available seat. In the event that the
3 student not selected does not wish to enroll in another participating school, the
4 school shall add the student to a waiting list so that he may be enrolled when a seat
5 becomes available. Students may remain on more than one participating school's
6 waiting list; however, upon enrolling in a participating school, their names shall be
7 removed from waiting lists maintained by other participating schools.

8 (3) Notify the department of scholarship recipients enrolled.

9 (4) Submit to the department an independent financial audit of the school
10 conducted by a certified public accountant who has been approved by the legislative
11 auditor. Such audit shall be accompanied by the auditor's statement that the report
12 is free of material misstatements and fairly presents the participating school's
13 maximum tuition or actual cost of educating a student pursuant to R.S. 17:4016. The
14 audit shall be limited in scope to those records necessary for the department to make
15 scholarship payments to the participating school and shall be submitted to the
16 legislative auditor for review and investigation of any irregularities or audit findings.
17 The participating school shall return to the state any funds that the legislative auditor
18 determines were expended in a manner inconsistent with state law or program
19 regulations. The cost of such audit shall be paid by the department from funds
20 appropriated by the legislature to implement the provisions of this Chapter.

21 (5) Accept the scholarship amounts provided to scholarship recipients as full
22 payment of all educational costs, including incidental or supplementary fees, that are
23 charged to all enrolled students, including but not limited to meals, field trips, and
24 before- or after-school care.

25 (6) Upon enrolling scholarship recipients pursuant to this Chapter, allow
26 such students to remain enrolled in the school if the school voluntarily withdraws
27 from the program provided that continued funding is appropriated by the legislature
28 for the program. However, students may be expelled from the school according to
29 the school's discipline policy or disqualified from enrollment in subsequent years if
30 the student is no longer eligible for the program as determined by the department.

1 In the event funding is not available to continue the program, the participating school
 2 shall allow a scholarship recipient to remain enrolled in such school, provided such
 3 student meets the school's requirements for continued enrollment and the student's
 4 parent or legal guardian assumes responsibility for paying the tuition and fees
 5 charged to all students enrolled in the school.

6 (7) Prior to enrollment, inform the parent or other legal guardian of a
 7 scholarship recipient of any and all rules, policies, and procedures of such school,
 8 including but not limited to academic policies, disciplinary rules, and procedures of
 9 the school. Enrollment of a scholarship recipient in a participating school constitutes
 10 acceptance of any such rules, policies, and procedures of such school.

11 §4023. Testing

12 A participating nonpublic school shall ensure that scholarship recipients are
 13 administered all examinations required pursuant to the Louisiana School and District
 14 Accountability System at the prescribed grade levels including the Louisiana
 15 Educational Assessment Program, the integrated Louisiana Educational Assessment
 16 Program (iLEAP), and graduation exit examinations.

17 §4024. Reports

18 The Department of Education shall report annually to the Senate Committee
 19 on Education, the House Committee on Education, and the Joint Legislative
 20 Committee on the Budget regarding the implementation of the program, including
 21 the number of eligible students receiving scholarships, a list of participating schools
 22 and the number of scholarship recipients each such school enrolled, and aggregate
 23 test result data for the scholarship recipients enrolled in each participating school.

24 §4025. Rules

25 The State Board of Elementary and Secondary Education shall adopt and
 26 promulgate rules and regulations in accordance with the Administrative Procedure
 27 Act to implement the provisions of this Chapter.

28 Section 2. This Act shall become effective upon signature by the governor or, if not
 29 signed by the governor, upon expiration of the time for bills to become law without signature
 30 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____